

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

NASSER SABER,

Plaintiff,

-against-

NEW YORK STATE DEPARTMENT
OF FINANCIAL SERVICES,

Defendant.

X

15 Civ 5944 (LGS)

DECLARATION
IN SUPPORT OF
APPLICATION FOR
ATTORNEY FEES

HERBERT EISENBERG, declares pursuant to 28 USC section 1746, under the penalty of perjury that the following is true and correct:

1. I am a member of the firm of Eisenberg & Schnell LLP. This declaration is submitted in support of plaintiff's fee application seeking attorney fees at the rates of \$400 and \$450 per hour for Margaret McIntyre and Doris Traub respectively.

2. I received my J.D. from the State University of New York at Buffalo Faculty of Law and Jurisprudence in 1983 and was admitted to the Bar of the State of New York in 1984. I am admitted to practice before the United States Circuit Court of Appeals for the Second Circuit and the United States District Courts for the Southern and Eastern Districts of New York. Since admission to the bar, employment law and employment discrimination litigation has been my primary area of specialization.

3. Since admission to the bar, my practice has been exclusively devoted to representation of employees or former employees in employment related matters primarily in the substantive areas of employment discrimination including equal pay, sexual harassment, employment contracts, and pension benefit litigation. I have represented literally hundreds of employees in a wide range of employment disputes

outside of litigation and hundreds of employees in litigation before the Federal District Courts in New York and in several appeals to the Second Circuit Court of Appeal as well.

4. I frequently speak at conferences and seminars on employment law and employment litigation issues including employment discrimination, civil procedure and attorney fees. For six years, I conducted an annual training session for Second Circuit Court of Appeals staff attorneys on employment law. I have also taught an employment law seminar as an adjunct faculty member of New York Law School. I have also written several articles on employment discrimination litigation issues for various publications.

5. In addition to my litigation experience, I am formerly the Vice President for Legislation and Public Policy of the National Employment Lawyers Association, "NELA." NELA is a national organization of over 2500 attorneys whose practices involve the representation of plaintiffs in employment related disputes. I was a member of NELA's Executive Board for twelve years. I am a former president of NELA/NY, NELA's New York affiliate bar association with over 300 members. I was on its Executive Board for over fifteen years and for a time was co-chair of its attorney fee committee. I have written many *amicus* briefs to Second Circuit to the New York Court of Appeals on behalf of NELA and/or NELA/NY. I was also a member of the Federal Civil Rules Advisory Committee–Employment Protocols Committee which created preliminary discovery protocols for employment cases which have been utilized not only by many district courts around the country but also are utilized by Your Honor.

6. I was elected as a Fellow of the College of Labor and Employment Lawyers in 2005. I have served as co-chair of the Labor and Employment Law Committee of the New York County Lawyers' Association. I have been listed in *Best Lawyers in America* and its New York analogue for 19 years and I been listed in *Superlawyers* since its inception in 2006.

7. My present hourly rate is \$750 per hour. There are times that I reduce my hourly rate to

accommodate a client's financial capability to pay my fee. Were I to submit a fee application, I would presently seek an hourly rate of \$750 per hour, a rate I frequently charge paying clients.

7. I have known Margaret McIntyre for 22 years. I had the pleasure to work directly with Ms. McIntyre shortly after her graduation from law school when she worked as an associate with my former law firm. I have found Ms. McIntyre to always be insightful, thoughtful and conscientious. She is honest and treats all with respect and integrity. Her dedication and commitment to her clients inspires me. I have known Ms. Traub for over fifteen years. I have called upon and relied on Ms. Traub to guide me in certain situations where public sector employees have employment problems. Her insight, intelligence, and thoughtfulness has always been appreciated. I have had countless discussions about legal issues with both Ms. McIntyre and Ms. Traub. It is clear from these conversations that they are both serious employment law advocates who work tirelessly on behalf of their clients.

8. I believe that the hourly rates of \$400 and \$450 per hour for Ms. McIntyre and Ms. Traub respectively, are below market rates and do not necessarily reflect the hourly rates that attorneys of similar experience charge in the New York market. I believe that in their exercise of billing judgment, their respective hourly rate requests are eminently reasonable.

March 14, 2018
New York, New York



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